

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ZAKIA I. AHMED,

Plaintiff

v.

FRANK A. BUCCI, d/b/a
STROUDSBURG EYE SPECIALISTS,

Defendant.

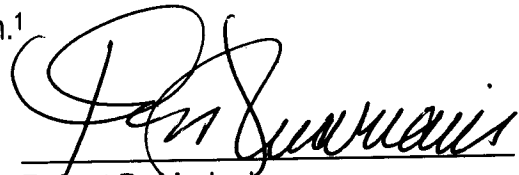
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3:15-CV-1868
(JUDGE MARIANI)

ORDER

AND NOW, THIS 26th DAY OF OCTOBER, 2018, upon review of Magistrate Judge Saporito's Report & Recommendation ("R&R") (Doc. 40) for clear error and manifest injustice, IT IS HEREBY ORDERED THAT:

1. The R&R (Doc. 40) is **ADOPTED** for the reasons stated therein.
2. The action is **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction.
3. The Clerk of Court is directed to **CLOSE** this action.¹


Robert D. Mariani
United States District Judge

¹ On June 8, 2016, Magistrate Judge Saporito issued a show cause order noting that "[n]o federal cause of action is apparent from the face of the complaint" and "because the plaintiff and the defendant are both citizens of Pennsylvania, this Court clearly lack diversity jurisdiction over the matter" and therefore directing Plaintiff to show cause why the action should not be dismissed for lack of subject matter jurisdiction. (Doc. 27). On August 11, 2016, Plaintiff filed an "Appeal" of Magistrate Judge Saporito's show cause order to the Third Circuit. (Doc. 34). The Circuit dismissed the appeal for lack of jurisdiction but noted that the "District Court may wish to consider the notice of appeal as an appeal to the District Judge or a response to the Magistrate Judge's show cause order." (Doc. 38).

Upon review of the record, Magistrate Judge Saporito's show cause order properly put Plaintiff on notice of a possible jurisdictional defect and provided her the opportunity to respond to the Court's reservations about its jurisdiction. Neither Plaintiff's Complaint nor her "Appeal", nor any subsequent filings by Plaintiff, provide any basis for this Court to find that we have subject matter jurisdiction over Plaintiff's action. Since the time that the show cause order was issued, Plaintiff has had over two years to set forth sufficient factual allegations or evidence to establish that this Court has subject matter jurisdiction over the action, but has failed to do so. As a result, the Court both affirms the Magistrate Judge's show cause order and adopts the pending R&R.